THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.18576 of 2005

12.9.2005

Between:

Vaka Srinivasa Reddy, S/o.Hanuma Reddy,

Kuppalapadu Village, Kondepi Mandal,

Prakasam District.

… Petitioner

AND

1. Director of Mines & Geology, Government of A.P.

Burgula Ramakrishna Rao Buildings, Near Tank Bunk,

Hyderabad. (A.P.) and others.

… Respondents.

ORDER:

The petitioner applied for quarry lease for black granite in an extent of 1.000 Hectare in Survey No.111/1 of R.L.Puram Village, Chimakurthy Mandal of Prakasam District under Rule 12(5)(a)(i) of A.P. Minor Mineral Concessions Rules, 1966 (the Rules, for short). The second respondent before whom the application was filed conducted survey in the presence of the petitioner and forwarded inspection report to the first respondent while calling for a 'No Objection Certificate' (NOC) from the revenue department with regard to classification and availability of land for grant of quarry lease. The fourth respondent, namely, Mandal Revenue Officer, Chimakurthy (MRO) addressed letter dated 16.9.2004 to second respondent expressing that there is no objection for grant of quarry lease to the petitioner. According to the petitioner, the application along with inspection report of the second respondent and NOC given by the fourth respondent were forwarded to the first respondent for grant of quarry lease in favour of the petitioner. The first respondent informed the petitioner that in view of the letter dated 22.4.2005 of the District Collector, the third respondent herein, the application of the petitioner for quarry lease is not disposed of. Therefore, the petitioner filed the instant writ petition to declare the letter of the District Collector dated 22.4.2005 as illegal and arbitrary and for a consequential direction to the respondents 1 and 2 to consider and dispose of the application of the petitioner for grant of quarry lease.

Learned Counsel for the petitioner, Sri K.Rajanna, submits that the action of the respondents 1 and 2 in not disposing of the application of the petitioner for quarry lease is illegal and arbitrary. Secondly, he would urge that the letter written by the third respondent requesting first respondent to stop quarry lease is in violation of

principles of natural justice and is unsustainable. He also would urge that the letter written by the third respondent is contrary to the instructions issued by the Government in G.O.Ms.No.181 dated 25.5.1998.

The Government of A.P. issued instructions in G.O.Ms.No.181 for expeditious disposal of applications for prospecting licence/mining lease and quarry lease. These instructions as culled out in the said Government Order are as follows:

1. The application for quarry lease is to be submitted to the concerned Assistant Director of Mines and Geology (ADMG), for prospecting licence/mining lease;

2. The ADMG shall acknowledge the receipt of the application and fix a date for inspection. He has to send a set of applications to the Mandal Revenue Officer (MRO) concerned to report on the date of the category of the land and availability of the land for grant of prospecting licence/mining lease or quarry lease;

3. The MRO within 30 days shall directly send a report to ADMG duly marking a copy to the District Collector. It shall be the duty of the District Collector to ensure that the MROs send their reports within specified time;

4. After receiving the copy of the report from the MRO, the District Collector has two options. In case, the District Collector agrees with the report, he/she need not send a report to Director of Mines and Geology (DMG). In case, the District Collector disagrees with the recommendation of the MRO, the District Collector will send his/her recommendation to the DMG within 30 days after receiving the report of MRO;

5. If the District Collector does not send any adverse report, it will be assumed (by competent leasing authority) that the District Collector has no objection for grant of prospecting licence/mining lease or quarry lease;

6. After receiving the report of the MRO, the ADMG within 15 days will directly send a report to DMG along with recommendation;

7. In case the area falls in forests, the ADMG will send report to Divisional Forest Officer (DFO) on the day when the application is received. The DFO will then send a report to Principal Chief Conservator of Forests under intimation to DMG, which will be processed within 30 days before sending it to the Government in Forests and Environment Department, who takes up the issue with the Government of India or Chief Conservator of Forest (Central), Bangalore; and

8. In case the area does not fall in notified forest, the DMG shall pass orders within 30 days either granting lease or making recommendation to State Government depending on the delegation of powers.

The petitioner, as noticed, submitted an application to ADMG on 04.8.2004, which was forwarded to the MRO. The MRO, based on the report obtained report

from the Mandal Revenue Inspector, send a report to ADMG vide letter dated 16.9.2004. In the said letter, the MRO stated that an extent of Acs.2.67 in Survey No.111/1 is recorded as foot-path in the village records, that it is a vacant occupied with granite mineral, and that it is not fit for cultivation and there are no permanent structures. The MRO also reported that M/s.Ongole Galaxy have dumped the waste of their quarry without permission and a notice was issued for removal of such dump within 60 days and therefore, there is no objection for issuance of NOC to the petitioner for grant of quarry lease. According to the petitioner, the ADMG forwarded the report to DMG and while it was under consideration, the third respondent sent a letter recommending to stop further process for grant of lease in view of irregularities committed by Sri K.Bhaskara Rao, former Mandal Revenue Officer, Cheemakurthy giving NOC for grant of quarry lease in vagu poramboke and kunta poramboke. This, according to the petitioner, is illegal and improper.

The report of the District Collector sent to DMG on 22.4.2005 would show that Sri K.Bhaskara Rao, former MRO, Cheemakurthy issued several NOCs without taking permission of the District Collector during the period of past one year resulting in civil litigations involving Government and that he also granted leases/NOCs/assignment pattas irregularly even without verifying ground position and without the knowledge of the District Administration. It was also reported that the Joint Collector conducted enquiry into the matter and submitted a report dated 02.4.2005, which disclosed that the MRO granted NOCs even in respect of prohibited areas. Insofar as the NOC granted to petitioner is concerned, the District Collector observed that NOC was granted in respect of the lands classified as Kalibatas (foot-paths) which are vested in Gram Panchayat under Section 53(1) of the A.P. Panchayat Raj Act, 1994 and no consent of the Gram Panchayat was obtained before issue of NOC, which is mandatory under Rule 9(ii) of the A.P.Minor Mineral Concession Rules, 1966, that the Government issued orders in Government Memo dated 22.8.2003 banning assignment of kunta poramboke and that the MRO issued clearance without prior permission of the Government/Collector.

A reading of the report of the District Collector would show that as many as 12 NOCs issued by the MRO, Cheemakurthy were enquired into and in respect of all the NOCs, the District Collector requested DMG not to process any further.

A person, who applies for prospecting licence/mining lease or quarry lease, cannot be said to have any absolute right for quarry lease till such lease is granted and the said person enters into agreement with the competent authority. The right to apply for quarry lease in respect of the land, which is available for quarry/mining lease cannot be equated to a right to enjoy the lease. Even according to the petitioner, while the matter was under consideration before the DMG, the District Collector addressed a letter. Therefore, the petitioner cannot be heard to say that the report that the report sent by the DMG has resulted in any civil consequences to the petitioner. By merely making application for grant of mining lease for granite, the petitioner cannot be said to have any invincible right. Therefore the submission that principles of natural justice are violated cannot be considered. For certain irregularities committed by MRO, the District Collector got an enquiry conducted by the Joint Collector and based on the report addressed a letter to the DMG to stop

further process of mining lease and also to cancel the leases already granted. This Court also does not find any arbitrariness or illegality in the action taken by the District Collector.

The writ petition is devoid of merit and is, accordingly, dismissed. No costs.

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(**V.V.S.RAO,J**)

September 12, 2005.

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